

October 2, 2001

The Honorable Michael W. Morrissey
The Honorable Daniel E. Bosley
Joint Committee on Government Regulations
State House, Room 413-B
Boston, Massachusetts 02133

Re: Report to the General Court on Renewable Energy Credits

Dear Chairmen Morrissey and Bosley:

As you know, Section 50 of the Electric Industry Restructuring Act¹ (the Act) directs the Division of Energy Resources (DOER) to establish a Renewable Energy Portfolio Standard (RPS) for all retail electricity suppliers selling electricity to end-use customers in the Commonwealth. DOER has recently published draft regulations that would implement the RPS. These have been provided to you under separate cover.

Section 332 of the Act directs DOER to “conduct a study and analysis in order to determine to what extent the renewable portfolio standard...shall create a process for awarding certified renewable energy credits to renewable energy generators or retail suppliers.” Section 332 also provides that, “In developing said process, the division shall create a mechanism for assessing fines and penalties for violations of said process.” I am pleased to submit this letter and an attachment to you and your Committee members in fulfillment of the requirements of Section 332.

¹ Chapter 164 of the Acts of 1997, AN ACT RELATIVE TO RESTRUCTURING THE ELECTRIC UTILITY INDUSTRY IN THE COMMONWEALTH, REGULATING THE PROVISION OF ELECTRICITY AND OTHER SERVICES, AND PROMOTING ENHANCED CONSUMER PROTECTIONS THEREIN, November 25, 1997.

DOER has conducted the requisite study and analysis pursuant to Section 332. Put simply, it is our conclusion that it is not necessary and would be cumbersome and expensive to create a renewable energy credit process to implement the Massachusetts RPS. Such a system would impose unnecessary administrative costs on both retail electricity suppliers and the Division. Ultimately these costs would result in higher than necessary costs to retail customers.

The draft regulations for RPS do not specify a particular method that retail suppliers can or must use to document compliance with RPS. This means DOER would allow any of several methods to document compliance. These would include evidence of contracts with renewable generators (when accompanied by reliable documentation that these attributes have not been counted toward any other RPS or green marketing program), evidence of ownership of "generation certificates" that include renewable attributes or evidence of contributions made to the Massachusetts Technology Park Corporation. Each of these methods is discussed in more detail in the Background Document that accompanies the draft regulations.

I would note that the study we completed pursuant to Section 332 (see Attachment 1) distinguishes a "generation information certificate" from a "renewable energy credit" for several reasons. First, these certificates will be produced by a generation information system being created by NEPOOL² and operated by ISO-New England for all power plants serving the region. The certificates will not be created by the Commonwealth or administered by DOER. Second, they will not be limited to renewable energy attributes of power generation. Rather, they will account for various attributes of a power plant's energy production including fuel type, air emissions, use of union labor and others. Third, they will be available for use by retail electricity suppliers to comply with various retail and wholesale regulatory requirements across all the New England states. Such requirements would include RPS requirements in Massachusetts and other states (such as Connecticut and Maine), consumer disclosure regulations in several states and emission performance standards in Massachusetts (and possibly other states).

While we recognize the benefits of having renewable attributes converted into commodities that can be traded, we believe the availability of generation certificates in New England removes the need to create and administer a separate Massachusetts renewable energy credit process.

² The NEPOOL Participants Committee on November 3, 2000 approved a conceptual design for a "generation information system" that would produce tradable certificates and directed the NEPOOL counsel to prepare a request for proposals to hire a generation information system administrator. A vendor has been chosen and a contract has been negotiated for that vendor to design, build and operate that system. As of this date, contract approval is pending before the Participants Committee.

With respect to fines and penalties, we believe that current enforcement options available to DOER will be sufficient to ensure compliance with RPS in the near term. If, and when, we determine that other penalties or fines are necessary, we will draft and file legislation that would establish those.

I would be happy to answer any questions you may have regarding these determinations.

Sincerely,

David L. O'Connor

cc: Members, Joint Legislative Committee on Government Regulations
Senator Susan Fargo, Senate Chairperson, Joint Committee on Energy
Representative John Binienda, House Chairperson, Joint Committee on Energy
Patrick Scanlan, Clerk of the Senate
Steven James, Clerk of the House of Representatives
Jennifer Davis Carey, Director, Office of Consumer Affairs and Business Regulation
Members - Massachusetts RPS Advisory Group

Attachment:

1. *RPS Accounting and Verification Mechanisms and Policy Coordination Summary*, Robert C. Grace, Ryan H. Wiser, Brian Abbanat, July 18, 2000.
2. *RPS Accounting and Verification Mechanisms and Policy Coordination Report*, Robert C. Grace, Ryan H. Wiser, Brian Abbanat, June 30, 2000.